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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,142	11/03/2003	Gary E. Jenkins	JENK / 02A	3727
26875	7590	10/03/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			CHAN, SING P	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/700,142	JENKINS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Sing P. Chan	1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
  - 4a) Of the above claim(s) 19-26 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8, 10-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al (U.S. 5,865,918) in view of Soto et al (U.S. 6,615,106).

3. Regarding claims 1, 4-6, 10, and 13-15, Franklin et al discloses an apparatus for applying a printed label. The apparatus includes a label printer or printers for printing more than one labels (Col 14, lines 20-21), a label applicator, slides and rotary actuator for moving and controlling the label applicator (Col 14, lines 24-26) to apply label to either side of boxes (Col 11, lines 43-51), a computer system for controlling and operating the apparatus with a touch screen for programming label location on a product. (Col 14, lines 27-31) Franklin et al does not disclose the label applicator receiving a printed label directly from the label printer. However, providing a label printer, which directly apply the label to the label applicator is well known and conventional as shown for example by Soto et al. Soto et al discloses a label applying apparatus. The apparatus includes a rotatable applicator arm with a label applicator head mounted on the applicator arm and rotation of the arm by the rotary actuator assembly rotate the printed label toward one side of the loaded pallet (Col 6, lines 33-

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52), and the arm is disposed at a HOME position, the label applicator is positioned adjacent and aligned to the label dispensing station of the label printer to be readily directly receiving a printed label from the printer (Col 6, lines 53-57)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a rotatable applicator arm with a label applicator head mounted on the applicator arm and rotation of the arm by the rotary actuator assembly rotate the printed label toward one side of the loaded pallet and with the arm is disposed at a HOME position, the label applicator is positioned adjacent and aligned to the label dispensing station of the label printer to be readily directly receiving a printed label from the printer as disclosed by Soto et al in the apparatus of Franklin et al to provide an apparatus capable of applying two separate labels to two mutually perpendicular surfaces of the package, box, or carton. (See Soto et al, Col 2, lines 46-50)

Regarding claims 2, 3, 11, and 12, Franklin et al discloses the applicator includes a lever arm with a pad on one end for carrying the label during the rotation toward one side of the box (Col 11, lines 61 to Col 12, line 21) and a rotary actuator for rotating the applicator. (Col 14, lines 24-26)

Regarding claims 8 and 17, Franklin et al discloses the rotary actuator is a commercially available actuator such as a rack and pinion type on a slide or carriage assembly and is capable of engaging the rack. (Col 12, lines 23-24)

4. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al (U.S. 5,865,918) in view of Soto et al (U.S. 6,615,106) as applied to claims 6 and 15 above, and further in view of Carpenter et al (U.S. 5,232,539).

Franklin et al as disclosed above is silent as to the printer is mounted on the carriage assembly. However, mounting the label printer on the carriage assembly is well known and conventional as shown for example by Carpenter et al. Carpenter et al discloses an apparatus for label object. The apparatus includes a movable printer on the carriage assembly for movement to proper height and for applying the label. (Col 3, lines 45-54)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a movable printer on the carriage assembly for movement to proper height or position as disclosed by Carpenter et al in the apparatus of Franklin et al to reduce the time between the application of labels. (See Carpenter et al, Col 1, lines 44-50)

5. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al (U.S. 5,865,918) in view of Soto et al (U.S. 6,615,106) as applied to claims 8 and 17 above, and further in view of Schwenke et al (U.S. 5,940,293).

Franklin et al as discloses the slides with pinion. (Col 14, lines 24-26 and Figure 21) Franklin also shows in Figure 21, a motor is operatively connected to the pinion. In any event, operatively connects a motor to a pinion on a slide is well known and conventional as shown for example by Schwenke et al. Schwenke et al discloses an industrial controller for bar chart editing. The apparatus includes moving the

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components with induction motors, hydraulic, or pneumatic cylinders, which are all equivalents. (Col 7, lines 10-23)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide motor, hydraulic, or pneumatic cylinders operatively connected to pinion on a slide as disclosed by Schwenke et al in the apparatus of Franklin et al, which are all equivalents.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P. Chan whose telephone number is 571-272-

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1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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